

THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRENDA GURNEY,)
)
 Plaintiff,)
)
 v.) Civil Case No. 7:21CV16
)
 ALLEGHANY HEALTH AND REHAB/)
 GL VIRGINIA ALLEGHANY, LLC)
 Serve: National Registered Agents, Inc.)
 4701 COX RD STE 285,)
 Glen Allen, VA 23060)
 (Henrico County))
)
 Defendant.)

COMPLAINT

Plaintiff Brenda Gurney files this complaint against defendant Alleghany Health and Rehab/GL Virginia Alleghany, LLC (hereinafter, “defendant” or “Alleghany”) and as grounds thereof states as follows:

STATEMENT OF THE CASE, JURISDICTION AND VENUE

(1) This is a complaint to remedy violations of the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. §§621, *et seq.*, as amended. Plaintiff seeks declaratory, injunctive relief and monetary damages.

(2) The Court has jurisdiction over this action pursuant to 29 U.S.C. §§621, *et seq.* and 28 U.S.C. §28 U.S.C. 1331.

(3) Plaintiff timely filed a charge of discrimination with the United States Equal Employment Opportunity Commission; exhausted all administrative procedures; received a notice of right to sue dated December 7, 2020; and files this complaint within ninety (90) days of receipt thereof.

(4) Venue properly lies in the Roanoke Division of the Western District of Virginia in that all of the discriminatory acts, retaliation, and damage alleged herein occurred in the western district of Virginia.

PARTIES

(5) Plaintiff is a citizen of the United States and a resident of the Commonwealth of Virginia. She is 70 years of age.

(6) Defendant is a corporation organized pursuant to the laws of the Commonwealth of Virginia and doing business in the Western District of Virginia and elsewhere.

(7) At all times material hereto, defendant employed more than 20 persons and is a “person” and an “employer” and is engaged in an industry affecting commerce within the meaning of the ADEA, 29 U.S.C. § 630.

FACTUAL ALLEGATIONS

(8) At all times material hereto, plaintiff was employed by defendant and worked as a nurse at Alleghany Health and Rehab (plaintiff is not certain of the precise legal name of her employer), an assisted living facility in Clifton Forge, Virginia.

(9) Plaintiff was and is an excellent employee and was often commended by defendant for her good work.

(10) On February 20, 2020 (all dates are approximate) plaintiff was at work when two nurses stated that there needed to be another nurse on the floor because plaintiff Gurney was getting too old and could not handle the floor. (This was not true. Plaintiff had worked the floor by herself for about a year and a half and did very well.)

(11) On February 20, 2020, one of the nurses, Janelle Herald, who was in her mid-thirties and had recently obtained her LPN, stated to another young nurse that she was taking over the hall

when she got her RN license because plaintiff was too old. The second nurse, who was approximately 28 years old and had worked for Alleghany for a couple of years, agreed with Nurse Herald's discriminatory comments.

(12) When Plaintiff overheard their comments, she told Nurse Herald that her statements were inappropriate, and that while everyone gets older, that does not mean that plaintiff or any other older workers cannot do their jobs. Plaintiff also told Nurse Herald that plaintiff was perfectly capable of doing her job.

(13) On or about February 21, 2020, Nurse Janelle Herald told plaintiff that she had repeated the statements to the Director of Nursing, Judy Williams.

(14) On or about February 22, 2020, plaintiff made a formal verbal complaint to DON Judy Williams regarding the discriminatory comments and treatment. Both the DON and Administrator Ann Marie Parks were in the office at the time.

(15) Shortly thereafter, defendant terminated plaintiff's employment on or about March 4, 2020.

(16) At all times material hereto, plaintiff was a good employee, and she is now working as a nurse in another facility.

(16) At all times material hereto, defendant's employees acted during the course and within the scope of their employment with defendant Alleghany Health and Rehab/GL Virginia Alleghany LLC.

COUNT I: CLAIM FOR AGE DISCRIMINATION

(17) Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.

(18) The actions of defendant as described herein constitute harassment and discrimination with respect to the compensation, terms, privileges, or conditions of employment, because of plaintiff's age, in violation of the Age Discrimination in Employment Act.

(19) As a direct result, plaintiff has suffered and will continue to suffer loss of income and employment benefits.

(20) Defendant acted willfully and with actual malice or with reckless disregard of the law in depriving plaintiff of employment opportunities because of her age so as to support an award of liquidated damages.

COUNT II: CLAIM FOR RETALIATORY DISCHARGE

(21) Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.

(22) Defendant retaliated against plaintiff and terminated her employment for complaining about the harassment, discrimination and hostile work environment in violation of the Age Discrimination in Employment Act.

(23) As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer pecuniary loss, mental anguish, pain and suffering, shame, humiliation, embarrassment, loss of enjoyment of life and other non-pecuniary loss.

(24) Defendant acted willfully toward plaintiff with actual malice or with reckless disregard of the protected rights of plaintiff so as to support an award of liquidated and exemplary damages.

WHEREFORE, plaintiff Brenda Gurney demands judgment against defendant for equitable and injunctive relief, and compensatory and liquidated damages, including but not limited to front and back pay, prejudgment interest, and attorney's fees and costs.

Trial by jury is demanded on all issues on which plaintiff is entitled to trial by jury including any question concerning whether plaintiff's claims must be submitted to arbitration.

Respectfully submitted,

BRENDA GURNEY

By /s/ Terry N. Grimes
Of Counsel

Terry N. Grimes, Esquire (VSB No. 24127)
TERRY N. GRIMES, ESQ., P.C.
Franklin Commons
320 Elm Avenue, SW
Roanoke, Virginia 24016-4001
(540) 982-3711
(540) 345-6572 *Facsimile*
Email: tgrimes@terryngrimes.com
Counsel for Plaintiff